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09/966,652	09/27/2001	Randy P. Stanley	42390P12156	5228

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EXAMINER

PESIN, BORIS M

ART UNIT

PAPER NUMBER

2174

2

DATE MAILED: 04/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/966,652

Applicant(s)

STANLEY, RANDY P.

Examiner

Boris Pesin

Art Unit

2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 6, 8, 10, 11, 15, 16, 18, 19, 23, and 25. are rejected under 35 U.S.C. 102(b) as being anticipated by Raje Software (Focus on Today).

In regards to claim 1, Raje Software teaches an apparatus comprising: an information display, wherein a value of a variable selected from the group consisting of percentage of maximum daylight, sunrise, sunset, phase of the moon, tide height, wave height, wind speed, probability of precipitation, weather conditions, a birthday, a graduation day, and an anniversary, pertaining to a particular time, is associated with a portion of said information display (See Figure 1, Element 1, the information selected in this element is presented in figure 2, element 1).

In regards to claim 2, Raje Software teaches an apparatus wherein said value of said variable is associated with a location (See Figure 3).

In regards to claim 6, Raje Software teaches an apparatus wherein an icon is embedded in the background of said portion of said information display and an icon is correlated with a value of said variable (See Figure 1, Element 1, the icon has a check box next to it indication the magnitude of the value (i.e. whether it is on or off)).

Claim 8 is in the same context as claim 1; therefore it is rejected under similar rationale.

In regards to claim 10, Raje Software teaches a method wherein associating causes an icon to be embedded in the portion of the information display (See Figure 2, Element 1).

In regards to claim 11, Raje Software teaches a method further comprising correlating the icon with a magnitude of the variable (See Figure 2, Element 1, when the variable is off then no information is shown, when the variable is on then the appropriate data (i.e. icon) is shown).

Claim 15 is in the same context as claim 1; therefore it is rejected under similar rationale.

Claim 16 is in the same context as claim 2; therefore it is rejected under similar rationale.

Claim 18 is in the same context as claim 10; therefore it is rejected under similar rationale.

Claim 19 is in the same context as claim 11; therefore it is rejected under similar rationale.

In regards to claim 23, Raje Software teaches an apparatus comprising: an information display (See Figure 4); and a calendar to be displayed on said information display, wherein a percentage of maximum sunlight for a selected time and a location to be associated with a calendar entry to be displayed on said information display (See

Art Unit: 2174

Figure 2, and Figure 4). Since the sunset and sunrise times are given, it is inherent that a percentage of maximum sunlight is calculated.

In regards to claim 25, Raje Software teaches a method comprising: estimating a percentage of maximum sunlight for a time and location; and associating the percentage of maximum sunlight with a calendar entry on an information display (See Figure 2, and Figure 4). Since the sunset and sunrise times are given, it is inherent that a percentage of maximum sunlight can be calculated.

In regards to claim 28, Raje Software teaches all the limitations of claim 27. He further teaches an apparatus wherein said quantity of information to be selected from the group consisting of percentage of maximum daylight, sunrise, sunset, phase of the moon, tide height, wave height, wind speed, probability of precipitation, weather conditions, a birthday and an anniversary (See Figure 1, Element 1).

In regards to claim 30, Raje Software teaches all the limitations of claim 27. He further teaches an apparatus wherein said quantity of information to be selected from the group consisting of percentage of maximum daylight, sunrise, sunset, phase of the moon, tide height, wave height, wind speed, probability of precipitation, weather conditions, a birthday and an anniversary (See Figure 1, Element 1).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

Art Unit: 2174

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 3, 7, 9, 14, 17, 22, 24, 27, 28, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Raje Software (Focus on Today) in view of Daniel Basterfield.

In regards to claim 3, Raje Software teaches all the limitations of claim 1. They do not teach an apparatus wherein said information display is handheld. Basterfield teaches that you can have the IBM PalmTop PC110 running under the Windows 95 environment. Since this PC is so small it is considered to be handheld. Further since Raje Software's product only requires a Windows 95 operation system to run, the IBM PalmTop PC 110 would have been sufficient at running the application. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Raje Software's invention and modify it to include in the specification that it could run on an IBM PalmTop PC 110 with the motivation to make the application easy to carry anywhere.

In regards to claim 7, Raje Software and Daniel Basterfield teach all the limitations of claim 3. Basterfield further teaches that the information display is coupled

Art Unit: 2174

with a handheld computer. Basterfield teaches that you can have the IBM PalmTop PC110 running under the Windows 95 environment. Since this PC is so small it is considered to be handheld. Further since Raje Software's product only requires a Windows 95 operating system to run, the IBM PalmTop PC 110 would have been sufficient at running the application.

Claim 9 is in the same context as claim 3; therefore it is rejected under similar rationale.

Claim 14 is in the same context as claim 7; therefore it is rejected under similar rationale.

Claim 17 is in the same context as claim 3; therefore it is rejected under similar rationale.

Claim 22 is in the same context as claim 7; therefore it is rejected under similar rationale.

Claim 24 is in the same context as claim 3; therefore it is rejected under similar rationale.

In regards to claim 27, Raje Software teaches an apparatus comprising: an information display; and an image contained within a background of said handheld information display, wherein said image represents a quantity of information, pertinent to a selected time to be communicated to a user (See Figure 2, Element 1). Raje Software does not teach an apparatus wherein the apparatus comprises of a handheld information display. Basterfield teaches that you can have the IBM PalmTop PC110 running under the Windows 95 environment. Since this PC is so small it is considered

to be handheld. Further since Raje Software's product only requires a Windows 95 operation system to run, the IBM PalmTop PC 110 would have been sufficient at running the application.

In regards to claim 28, Raje Software teaches and Basterfield teach all the limitations of claim 27. Raje Software further teaches an apparatus wherein said quantity of information to be selected from the group consisting of percentage of maximum daylight, sunrise, sunset, phase of the moon, tide height, wave height, wind speed, probability of precipitation, weather conditions, a birthday and an anniversary (See Figure 1, Element 1).

In regards to claim 29, Raje Software teaches a method comprising: selecting a time (See Figure 3); associating a quantity of information with an image (See Figure 1, Element 1), wherein the quantity of information is related to the time obtained from said selecting; and displaying the image within a background (See Figure 2, Element 1). Raje Software does not teach a method wherein the information is displayed within a handheld information display. Basterfield teaches that you can have the IBM PalmTop PC110 running under the Windows 95 environment. Since this PC is so small it is considered to be handheld. Further since Raje Software's product only requires a Windows 95 operation system to run, the IBM PalmTop PC 110 would have been sufficient at running the application.

In regards to claim 30, Raje Software and Basterfield teach all the limitations of claim 29. Raje Software further teaches an apparatus wherein said quantity of information to be selected from the group consisting of percentage of maximum

Art Unit: 2174

daylight, sunrise, sunset, phase of the moon, tide height, wave height, wind speed, probability of precipitation, weather conditions, a birthday and an anniversary (See Figure 1, Element 1).

Claims 4, 5, 12, 13, 20, 21, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raje Software (Focus on Today) in view of Hirai (US 5892519).

In regards to claim 4, Raje Software teaches all the limitations of claim 1. They do not teach an apparatus wherein a modulation of background intensity of said portion of said information display is correlated with said variable. Hirai teaches, "According to the information display device as described above, for example if image data corresponding to various environmental conditions of the sky at various time points such as morning, noon and evening are stored, and these data are switched to one another in accordance with the time, the user can have sense of time and feel as if he is surrounded by the nature with the artificially-produced environmental variation of the outdoors." (Column 1, Line 56, Also Figures 6a-6f). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Raje Software with the teachings of Hirai and include an apparatus that changes appearance overtime with the motivation to provide the user a feeling of the outside world when he is using the computer.

In regards to claim 5, Raje Software teaches all the limitations of claim 1. They do not teach an apparatus wherein a modulation of background intensity of said portion of said information display is correlated with said variable to form a watermark image on said information display. Hirai teaches, "According to the information display device as described above, for example if image data corresponding to various environmental conditions of the sky at various time points such as morning, noon and evening are stored, and these data are switched to one another in accordance with the time, the user can have sense of time and feel as if he is surrounded by the nature with the artificially-produced environmental variation of the outdoors." (Column 1, Line 56, Also Figures 6a-6f).

In regards to claim 12, Raje Software teaches all the limitations of claim 8. They do not teach a method, wherein said associating causes a background intensity of the portion of the information display to be correlated with the variable. Hirai teaches, "According to the information display device as described above, for example if image data corresponding to various environmental conditions of the sky at various time points such as morning, noon and evening are stored, and these data are switched to one another in accordance with the time, the user can have sense of time and feel as if he is surrounded by the nature with the artificially-produced environmental variation of the outdoors." (Column 1, Line 56, Also Figures 6a-6f).

In regards to claim 13, Raje Software teaches all the limitations of claim 8. They do not teach a method, wherein said associating causes a modulation of a background intensity of the portion of the information display to be correlated with the variable. Hirai

Art Unit: 2174

teaches, "According to the information display device as described above, for example if image data corresponding to various environmental conditions of the sky at various time points such as morning, noon and evening are stored, and these data are switched to one another in accordance with the time, the user can have sense of time and feel as if he is surrounded by the nature with the artificially-produced environmental variation of the outdoors." (Column 1, Line 56, Also Figures 6a-6f).

Claim 20 is in the same context as claim 12; therefore it is rejected under similar rationale.

Claim 21 is in the same context as claim 13; therefore it is rejected under similar rationale.

In regards to claim 26, Raje Software teaches all the limitations of claim 25. They do not teach a method wherein said associating results in modulating a display intensity of a part of said information display. Hirai teaches, "According to the information display device as described above, for example if image data corresponding to various environmental conditions of the sky at various time points such as morning, noon and evening are stored, and these data are switched to one another in accordance with the time, the user can have sense of time and feel as if he is surrounded by the nature with the artificially-produced environmental variation of the outdoors." (Column 1, Line 56, Also Figures 6a-6f).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 2174

US006661438B1

Sharaishi et al.

Teaches a hand held organize interface utilizing many different features including displaying weather and a calendar.

US006714222B1

Bjorn et al.

Teaches displaying the weather information in the background of the screen.

US006278456B1

Teaches a web calendar.

### ***Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boris Pesin whose telephone number is (703) 305-8774. The examiner can normally be reached on Monday-Friday except every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid can be reached on (703) 308-0640. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2174

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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